



(4310-W7-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

(14X/A11220000.224200/AAK4004800/AX.480ADM1.0000)

Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Rate Adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns, or has an interest in, irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We are notifying you that we have adjusted the irrigation assessment rates at several of our irrigation projects and facilities to reflect current costs of administration, operation, maintenance, and rehabilitation.

DATES: *Effective Date:* The irrigation assessment rates shown in the tables as final were effective as of January 1, 2013.

FOR FURTHER INFORMATION CONTACT: For details about a particular BIA irrigation project or facility, please use the tables in the SUPPLEMENTARY INFORMATION section to contact the regional or local office where the project or facility is located.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was published in the Federal Register on October 17, 2012 (77 FR 63850) to propose adjustments to the irrigation assessment rates at several BIA irrigation projects. The public and interested

parties were provided an opportunity to submit written comments during the 60-day period that ended December 17, 2012.

Did the BIA defer or change any proposed rate increases?

No.

Did the BIA receive any comments on the proposed irrigation assessment rate adjustments?

Written comments were received related to the proposed rate adjustment for the San Carlos Irrigation Project for 2014 and the Wind River Irrigation Project for 2013.

What issues were of concern to the commenters?

One commenter raised concerns specific to the San Carlos Irrigation Project on the proposed rates about the following issues: (1) the methodology for the O&M rate setting; and (2) the timely receipt of information for commenting, budget formulation and accounting, items related to staffing, contract payments, cylinder gate replacement, permits and leasing, reserve account, and reservoir area capacity.

One commenter raised concerns specific to the Wind River Irrigation Project on the proposed rates about the following issues: (1) opposing a rate increase based on the project's asserted inability to deliver water to many portions of the system as well as to maintain equitable access to paying users; and (2) postponing a rate increase while a cooperative agreement is considered by an irrigator's group.

The Following Comments Are Specific to the San Carlos Irrigation Project.

Written comments relating to the FY 2014 proposed O&M rate for the San Carlos Irrigation Project –Joint Works (SCIP-JW) were received by letter dated December 17, 2012, from the San Carlos Irrigation and Drainage District (District). The District raised several issues

in its letter. The BIA's summary of the District's issues and the BIA's responses are provided below.

Comment: The commenter questioned the methodology by which BIA establishes O&M rates and the schedule for consultation meetings with the commenter.

Response: The methodology used by the BIA to determine a 2014 O&M rate was reasonable. Based on a review of historical income receipts and expenditures, a budget of projected income receipts and expenditures was developed approximately two years before the O&M assessments are collected and expenses are incurred. The BIA relies on financial reports generated by the Financial and Business Management System for reviewing past expenditures and projecting a future budget and expenditures. Procurement files and records maintained by the SCIP-JW were also reviewed and considered. For example, with regard to development of the FY 2014 budget, the BIA reviewed: (1) the year-end reconciled income and expenditure information for 2010 and 2011; (2) available income and expenditure information for 2012; (3) previous budget projections for 2012; and (4) other information relevant to potential future expenses, such as cost information for replacement of the Coolidge Dam cylinder gates.

The BIA has provided the District with draft budget and supporting information, held budget fact-finding meetings over the period from December 2011 to April 2012, and received feedback from the District. In addition, in accordance with BIA policy, meetings have been held with SCIP-JW water users (including the District) in order to discuss O&M rates and maintenance needs. The cited settlement agreement stipulates that two fact-finding meetings are to be held annually. In an effort to accommodate and address the concerns raised by the District and other water users during the 2014 O&M rate setting process, a total of four fact-finding

meetings were held. Each of these meetings was held at least 30 days apart, which afforded ample time for comments, requests of additional information, and clarification of items.

Furthermore, SCIP-JW uses its best effort to conform to budget and data templates suggested by the water users during the meetings. These templates are susceptible to adjustment from year to year based on the water user meetings. In response to water user concerns about O&M expenditures, SCIP-JW currently uses the services of the Accountant employed by the Office of Trust Services, Division of Water and Power to complete a detailed annual reconciliation of the O&M funds. This service involves reviewing thousands of accounting lines in the BIA's official financial system. The Accountant's reconciliation for FY 2011 was completed and presented to the District and the other water users on January 5, 2012. None of the water users has provided any information that would undermine the accuracy and completeness of the reconciliation.

Comment: The commenter questioned the timely receipt of budget information and supporting documentation for FY's 2012, 2013, and 2014.

Response: The BIA does not believe that the information provided to the District and the other water users for FY 2014 was untimely. In addition to providing detailed fund reconciliations to the District and the other water users for FY 2010 and 2011, SCIP-JW conducted fact-finding meetings with the District and other water users on December 6, 2011; January 5, 2012; February 29, 2012; and April 2, 2012 to discuss the proposed FY 2014 O&M budget and the fund reconciliations for FY 2011. SCIP-JW provides information such as staff position descriptions and salary tables, updates on well repairs, encroachment permitting specifics, and other information in extensive detail to the District and other water users. SCIP-JW does what any reasonable program does when managing an annual \$3.0 million budget - it

conducts periodic re-evaluations and updates of the revenues and expenditures to display the most accurate budget information possible, and shares this information with the water users. The SCIP-JW used the guidance of the Certified Government Financial Manager, who is also a Certified Public Accountant employed by the Office of Trust Services, Division of Water and Power during the FY 2014 rate setting process to refine the presentation of O&M budget information, make the budget presentations more transparent, and employ more precise accounting terminology. SCIP-JW will continue to look for ways to refine its accounting presentation format and produce a budget presentation that facilitates water user review. The District is encouraged to continue its communications with SCIP-JW and available BIA staff to review and discuss the SCIP-JW O&M issues.

Comment: The commenter questioned the timing of budget information submitted for FY 2011.

Response: The Accountant's reconciliation for FY 2011 was completed and presented to the District and the other water users on January 5, 2012. The FY 2011 reconciliation was available to the water users for nearly all of the 2014 rate setting meetings. None of the water users have provided any information that would undermine the accuracy and completeness of the reconciliation.

Comment: The commenter questioned the justification of the numbers for the 2011 budget.

Response: With regard to the budget information provided to the water users in past fiscal years, SCIP-JW has provided the best available budget information at each point in time. The initial budget, upon which proposed rates are developed in consultation with the water users, is projected two years in advance as required by SCIP-JW's governing authorities. SCIP-JW

does periodic re-evaluations and updates of the budget information in consultation with the water users. It is expected that budget updates done in the specific fiscal year, based on reconciled expenditures, will differ from the budget line items forecasted two to three years prior to the fiscal year the expenditures are made. Factors influencing this situation include unforeseen expenditures, undelivered orders, price changes, etc. It makes little sense to use figures from two years prior to determine the required future assessment rate when current figures are available. Budget figures and expenditures are subject to periodic re-evaluation and adjustment, but a “Notice of Rate Adjustment” established by the Assistant Secretary - Indian Affairs (AS-IA) cannot be changed by SCIP-JW.

Comment: The commenter questioned the personnel costs for FY’s 2009, 2010, and 2011 and questioned the staffing levels and use of overtime in 2011.

Response: SCIP-JW, the District, and the other water users have discussed this concern numerous times during the last three years. See our response to the District’s concern in Federal Register Notices for “Rate Adjustments for Indian Irrigation Projects”, dated May 9, 2011 and February 23, 2012. We understand that the District disagrees with the manner in which SCIP-JW managed its irrigation staff during the time periods in question. The District was made aware of the policy at its inception and been advised through monthly budgeting reports that personnel expenditures in FY 2011 were going to exceed the previously budgeted amounts as a result of the additional staffing and overtime necessitated by the policy. We believe that these personnel expenditures were reasonable and appropriate, and well within SCIP-JW’s authority to manage its personnel to assure that its water delivery obligations are satisfied.

Comment: The commenter questioned the availability of funds for payments to the Joint Control Board (JCB).

Response: The third and final JCB funding transfer (\$200,000) was completed in March 2012. The \$300,000 payment to the JCB on behalf of the Community is available for payment as soon as the JCB reactivates its registration in SAM.GOV.

Comment: The commenter questioned the status of unused funds in a contract with Transcon Environmental and requested the status of de-obligation of those funds.

Response: In early FY 2012, the Transcon Environmental Contract ended. An unexpended amount of \$54,862.11 was de-obligated and made available to SCIP-JW as unobligated cash in FY 2012.

Comment: The commenter questioned status of unused funds in a contract with Coolidge Engine and Pump, Jonovitch Companies and Southwest Water and Minerals and requested the status of de-obligation of those funds.

Response: Funds obligated in FY 2011 for the Well Rehabilitation Contract, awarded to Coolidge Engine and Pump, remained obligated in FY 2012 and will remain obligated until all of the scheduled pump repairs are completed. Any remaining funds will be utilized toward rehabilitating additional wells. SCIP-JW does not foresee a de-obligation of funds from this contract in FY 2013.

Comment: The commenter questioned the reconciliation of funds collected in FY 2011, 2012 and 2013 for the Cylinder Gate Replacement Project.

Response: The FY 2011 Reconciliation does not need to be corrected. Reserve and sinking funds are not differentiated from other funds available to SCIP-JW in the Financial and Business Management System (formerly Federal Financial System) employed by SCIP-JW. The reconciliation figures are based on output from this financial management program and consequently do not differentiate the reserve and sinking funds from other available cash. The

funds cannot be separated until they become obligated, and the sinking funds cannot become obligated until a contract is in place. Please rely on the budget reports provided to the water users to track the balance of the Coolidge Dam Cylinder Gate Replacement fund.

Comment: The commenter recommended that excess pumping charges for FY 2011 should be shown as revenue for FY 2012.

Response: Excess pumping charges were shown as income in the most recent FY 2012 budget distributed during the FY 2014 O&M rate setting process.

Comment: The commenter was concerned that the revenues shown for wood gathering permits and grazing leases in recent years appears to be lower than previous years and requested a list of all existing wood gathering permits and grazing leases as well as the payments received from each in FY 2011.

Response: Total payments recorded for Wood Permits and Grazing Permits were shown individually in the FY 2011 reconciliation spreadsheet presented to the water users in the January 5, 2012 meeting. The individual amounts received for each wood permit are reflected in the GL 4114 tab (rows 89 through 106 of the Excel sheet), and are reproduced below. Similarly the amount received for a single grazing permit is also reflected in the GL 4114 tab (row 80 of the Excel sheet), and is reproduced below.

2011 Wood Permit Income									
H59100	51000	5914	4114	10/25/2010	2011	SANCARIRR 1	\$5.00	XFM0CKW	
H59100	51000	5914	4114	11/3/2010	2011	SANCARIRR 1	\$5.00	XFM0CKW	
H59100	51000	5914	4114	12/7/2010	2011	SANCARIRR 1	\$5.00	XFM0CKW	
H59100	51000	5914	4114	12/7/2010	2011	SANCARIRR 1	\$5.00	XFM0CKW	
H59100	51000	5914	4114	12/15/2010	2011	SANCARIRR 1	\$5.00	XFM0CKW	
H59100	51000	5914	4114	1/20/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW	
H59100	51000	5914	4114	1/31/2011	2011	SANCARIRR 1	\$10.00	DFMABRG	
H59100	51000	5914	4114	2/8/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW	
H59100	51000	5914	4114	2/8/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW	

H59100	51000	5914	4114	2/24/2011	2011	SANCARIRR 1	\$10.00	DFM0LXW
H59100	51000	5914	4114	3/4/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW
H59100	51000	5914	4114	3/31/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW
H59100	51000	5914	4114	5/13/2011	2011	SANCARIRR 1	\$5.00	XFM0CAK
H59100	51000	5914	4114	5/17/2011	2011	SANCARIRR 1	\$5.00	DFM0DDH
H59100	51000	5914	4114	5/24/2011	2011	SANCARIRR 1	\$5.00	DFM0DDH
H59100	51000	5914	4114	6/17/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW
H59100	51000	5914	4114	8/10/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW
H59100	51000	5914	4114	8/26/2011	2011	SANCARIRR 1	\$5.00	DFM0LXW
							<u>\$100.00</u>	

2011 Grazing Permit Income

H59100	51000	5914	4114	5/9/2011	2009	BLM	\$794.13	XFM0CAK
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Comment: The commenter requested backup documentation for each line item included under the Expenses section of the actual reconciliation and requested that actual paid invoices for all accounts over budget be shown in the documentation.

Response: The BIA views the request to be over-broad, burdensome, and lacking a reasonable basis for the request. SCIP-JW has previously provided the vendor names and payment amounts in the annual reconciliation compact disks. Additionally, SCIP-JW provides monthly updates to the District about the status of various contracts and obligations on a form developed by the District. SCIP-JW will continue to document and discuss a specific expenditure in the FY 2011 reconciliation if the District can describe a reason for questioning a specific expenditure. The District has insisted that SCIP-JW keep its program and staff costs at a reasonable level but this request is inconsistent with the District's insistence that SCIP-JW keep its program and staff costs at a reasonable level. Since 2008, the BIA has not charged SCIP-JW's annual reconciliations to the Irrigation O&M budget, and the BIA has made staff available to provide technical assistance to the District related to the Federal financial system upon which annual reconciliations are based.

Comment: The commenter recommended that the budgets shared with the District during Fact Finding Meetings include the expected actual income and expenses for previous years, as well as the expected carry-over moneys available at the beginning and end of each Fiscal Year and that the data be provided to the District in multiple file formats

Response: The AS-IA establishes an O&M rate based on the recommendation of SCIP-JW and the Regional Director for the Western Region. Supporting budget information along with the recommended O&M rate is submitted to this office by SCIP-JW and the Regional Director. The establishment of the O&M rate by this office does not freeze-in-time SCIP-JW's budget for the fiscal year in question.

SCIP-JW has utilized the most up-to-date budget figures available for FY 2012 and 2013 in the proposed FY 2014 budget accompanying SCIP-JW's recommended O&M rate for FY 2014. SCIP-JW has shared this updated information with all of the water users.

Comment: The commenter quoted a Bureau of Reclamation cost estimate of \$1.1 million for the replacement of two cylinder gates at Coolidge Dam, questioned the funding amount set aside by BIA for the project, and requested that any residual funding be returned to the operating budget of SCIP for future expenses.

Response: SCIP-JW does not have any record of a cost estimate totaling \$1.1 million for replacement of the Coolidge Dam Cylinder gates. The most recent estimate (2008) produced by the Bureau of Reclamation projects the cost of the project to be just under \$1.8 million when construction management costs are combined with the costs of supplies and other services. This cost estimate was provided to the District prior to the Coolidge Dam Cylinder Gate Technical Work Group Meeting held on June 28, 2011. This cost estimate is in the process of being updated along with addressing other pre-construction issues.

After careful consideration of the District's comments in the rate setting meetings for FY 2014, SCIP-JW removed the contribution to the Coolidge Dam cylinder gate replacement sinking fund from the recommended rate submitted to this office for the FY 2014 budget. This action allowed the proposed FY 2014 O&M rate to remain at \$30/acre rather than increasing to \$35/acre. However, the 2008 cost estimate exceeds the funds currently set aside for this project. Consequently, SCIP-JW proposes to set aside an additional \$300,000 in FY 2015 for the project. This proposed sinking fund contribution was a major factor influencing the decision of the SCIP-JW to recommend to this office an O&M rate of \$35/acre for FY 2015. The SCIP-JW recommendation for the 2015 O&M rate is under consideration by this office. As planning and design proceeds for replacement of the cylinder gates, SCIP-JW will continue to refine and update cost estimates for final design and implementation of the cylinder gate replacement project. Any additional funding requirements will be considered during the rate setting process for FY 2016. SCIP-JW will continue to update the O&M budgets with the best available information as this matter develops and will keep the water users informed when the federal procurement processes are triggered.

Comment: Regarding the San Carlos Reservoir Area/Capacity Study, the commenter recommended that the study costs be funded through assessment by the Gila Water Commissioner on all Gila Decree acres, including those lands within the Upper Valley Districts.

Response: SCIP-JW wanted to have this Area/Capacity Study performed as soon as possible in order to take advantage of the low reservoir water levels. The field work for this Study was conducted in August 2012. SCIP-JW believes that this undertaking was a valid O&M activity related to the irrigation operations of SCIP-JW. If the District would like the Gila Water Commissioner to reimburse SCIP-JW for a portion of the costs associated with the study, SCIP-

JW recommends that the District file a petition with the Federal Court with jurisdiction over the Gila Water Commissioner and request that the reimbursement costs be included in the annual assessment approved by the Federal Court for the Gila Water Commissioner's Office.

Comment: The commenter questioned staffing levels for ISO Positions, given the potential completion of canal and structure automation projects.

Response: SCIP-JW will continue to evaluate its staffing requirements as the various phases of rehabilitation are completed. SCIP-JW does not believe it is reasonable or appropriate at the present time to predict the downsizing of irrigation staff. There are many contingencies which affect construction schedules, such as the rehabilitation construction schedules managed by the District under the Arizona Water Settlements Act. We look forward to continuing this discussion with the water users in the future.

Comment: The commenter questioned Stand-by Charges that are calculated for field staff who are available for call-out on a 7 day, 24 hour basis.

Response: The ten percent salary differential is known as Administratively Uncontrollable Overtime (AUO) pay, which compensates for "irregular" or "occasional" overtime work during a tour of duty (please refer to 5 CFR 550.151 – 550.164, which authorizes AUO pay). SCIP-JW has determined that this compensation method is more cost effective than paying the prevailing overtime rate for the actual amount of irregular hours or overtime worked. We concur with SCIP-JW's program judgment in this matter. The nature of the position requires irrigation field personnel to be on-call and readily available to meet water user requests in a large geographical area, and make critical water adjustments (e.g. pump operations and gate changes) in a timely manner. This is especially important during emergencies. SCIP-JW appreciates receiving advance notification from the SCIDD Watermaster and/or zanjeros when water

delivery changes or adjustments are required. This allows SCIP-JW irrigation field personnel to adjust their daily schedules to meet the needs of the water users.

Comment: The commenter questioned the management of overtime for field personnel to cover evening, night and weekend shifts.

Response: SCIP-JW's discontinuation of the policy requiring ISOs to work in pairs has reduced the amount of overtime worked by SCIP-JW Irrigation field personnel. However, the need to make emergency repairs has increased recently due to vandalism and as a result of outdated well components on SCIP-JW wells. Therefore, SCIP-JW will continue to authorize overtime for Well & Pump personnel to allow for necessary repairs for the benefit of the water users, and to assure that water deliveries under the Federal Gila Decree are satisfied.

Comment: The commenter questioned salary escalation for SCIP staff.

Response: Increases to pay systems and pay schedules is not a discretionary authority of the SCIP-JW.

Comment: The commenter questioned overtime allowance and benefit calculations for SCIP staff.

Response: In response to the District's comment, SCIP re-examined its overtime and benefit compensation estimates. The amount of overtime that is worked by each employee varies from year to year and is influenced by several factors outside of SCIP-JW's control. Consequently, the total amount of overtime compensation that will be required in any given year is difficult to predict. SCIP-JW has found that recent annual overtime compensation averages about 12.5 percent of total employee compensation, including benefits. Although some SCIP-JW irrigation employees do not work overtime, SCIP-JW believes that the method of applying a 12.5 percent overtime adjustment to all personnel costs results in a reasonably accurate estimate

of overtime costs. Most Federal employee benefits (except for health insurance and life insurance premiums) do also accrue on overtime compensation. However, SCIP-JW will continue to re-evaluate its overtime allowances and benefit calculations and determine if adjustments would result in a more accurate estimate of overtime compensation. Any revisions will be considered in next year's rate assessment proposal.

Comment: The commenter questioned the need for a Program Assistant Position.

Response: The updated draft personnel spreadsheet no longer includes a Program Assistant position. SCIP-JW is now proposing the addition of a Program Analyst position. This position will be advertised at a GS 7/9/11 level. By advertising the position at this level SCIP-JW hopes to procure the services of a well-qualified employee capable of assisting the Supervisory Civil Engineer in management decisions, tracking expenditures, and developing accurate budgets. The actual cost of the position will be influenced by the qualifications of the employee that is hired. The employee will only perform work in the SCIP-JW Irrigation Division and therefore the employee's entire salary will be paid by the Irrigation Division.

Comment: The commenter questioned the funding allocation of the Project Manager position for oversight of the Irrigation Division and suggested that it be something less than 10 percent of the total.

Response: Historically, the funding ratio for the Project Manager has always been 25 percent by the Irrigation Division and 75 percent by the Power Division. The Project Manager's oversight of the Irrigation Program has increased with the enactment of the Arizona Water Settlements Act and the extensive contract and pre-construction activities required by this Act. SCIP-JW will evaluate this charge annually in conjunction with the fact-finding meetings with the District and the other water users.

Comment: The commenter recommended that the Foreman II, Pump Shop, and Pump Shop Mechanic Helper positions be assigned to other entities.

Response: SCIP-JW will continue to evaluate its staffing requirements as the various phases of rehabilitation construction are completed. The extent to which the SCIP-JW wells are to be transferred from SCIP-JW management is defined in the settlement documents for the Arizona Water Settlements Act. SCIP-JW does not believe it is reasonable or appropriate at the present time to predict downsizing of this staff. There are many contingencies that affect construction schedules, such as the rehabilitation construction schedules managed by the District under the Arizona Water Settlements Act. We look forward to continuing this discussion with the water users in the future. Funding for these positions is being retained in the FY 2014 projected budget.

Comment: The commenter requested that BIA evaluate the appropriate funding allocation of the Environmental/Archeologist and Secretary Positions with the Power Division and provide documentation of labor hours for budget reconciliation.

Response: The SCIP-JW Irrigation Division has estimated the budget for the Environmental/Archaeologist position at a rate of 10 percent in our proposed O&M budgets. However, SCIP-JW will charge the position's services to the Irrigation Division when services are provided to the Irrigation Division. This may result in actual charges to the Irrigation Division for this position to be greater or less than the estimated 10 percent in any given year; actual charges will be reflected in the annual reconciliation. The Secretary position has been eliminated. We respectfully decline the District's request for copies of time sheets, work assignments, work accomplishments, and related documents for audit by the District. SCIP-JW will continue to document the salary/benefits expenditures for the Environmental/Archaeologist

position in the annual reconciliations for the Irrigation O&M program. SCIP-JW believes that its estimation of the contribution of this staff member to the Irrigation Division and the Power Division is reasonable.

Comment: The commenter believes the salaries for the Dam Tender and Laborer position at Coolidge Dam should be shared equally between the Irrigation Division and Power Division.

Response: Dam Tenders are full time Irrigation employees and will continue to be funded by Irrigation funds. The work duties of these employees are not in any way related to the functions of the Power Division.

Comment: The commenter believes that starting in FY 2014, the drip tanks should be removed, rather than replaced.

Response: We expect the wells to be maintained by SCIP throughout FY 2014. However, replacement of the drip oil tanks has been removed from the proposed FY 2014 budget. Drip oil will now be purchased directly from local suppliers on an as needed basis.

Comment: The commenter suggested that the revised encroachment permit be implemented immediately.

Response: The revised Encroachment Permit application was submitted, along with the recommended FY 2014 assessment rate, to the AS-IA for consideration. However, the revised Encroachment Permit application and fee schedule was shared with the District and other water users during the FY 2014 O&M rate setting process. No comments were received on the proposed permit. SCIP-JW will advise the water users when further action has been taken on this proposal by the AS-IA.

Comment: The commenter recommended that costs for meter panels should not be included in the SCIP FY 2014 budget or assessment.

Response: Meter panels are scheduled to be replaced by SCIP-JW starting in FY 2014. SCIP-JW will continue to reflect the budgeting for this activity until there is better information available concerning the anticipated dates for the transfer of maintenance responsibility of SCIP-JW wells.

Comment: The commenter suggests that pumping power costs should not be included in the FY 2013 and 2014 budget or the 2014 assessment.

Response: Budgeting for power for pumping in FY 2014 will continue to be carried out assuming that well O&M will continue to be the responsibility of SCIP-JW in FY 2014.

Comment: The commenter suggests that the energy usage rate for new facilities be at the same rate used for Project wells.

Response: All the energy usage accounts have been transferred to the JCB.

Comment: The commenter recommended that the per acre assessment for 2014 needs to reflect income from all sources (encroachment and crossing permits, late payments, excess pumping, wood gathering permits and grazing leases) and that income be credited against the 2014 assessment.

Response:

- Other water income for FY 2014 has been estimated and is included in the current projected budget spreadsheet.
- Excess pumping is highly dependent on the amount of stored water available in San Carlos Reservoir, which is impossible to predict two years in advance. In many years no income is derived from excess pumping.

- The recent administrative practice of the District is to pay its assessment one year late, and incur penalty charges under the Repayment Contract. However, SCIP-JW is reluctant to memorialize the District's recent contract breaches into the annual O&M budget process.

- The combined effect on the assessment rate of income derived from encroachment permits, wood permits, and grazing leases is projected to be approximately one cent per acre. Consequently, no effort will be made to include estimates for these sources of income in the projected budgets.

Comment: The commenter suggests that unexpended funds from prior years be de-obligated and made available to meet future expenses.

Response: Please refer to the previous response concerning this issue.

Comment: The commenter questioned the current reserve fund balance and the future funding allocation for this budget item.

Response: We do not believe that a change in this budget item is reasonable or justified. The \$400,000 reserve fund maintained by SCIP-JW since 2010 is near the minimum amount recommended by BIA policy for an irrigation project with annual obligations approaching \$3,000,000.

As a consequence of the current practice of water users to pay their assessments a year or more late, SCIP-JW has realized the need to maintain a sufficient reserve fund that can be used to sustain operations until payments are received. In addition, SCIP-JW has recently become aware of the need to increase the amount held in reserve for unanticipated expenses. Several expense items in FY 2012 were either not anticipated or much higher than anticipated when the FY 2012 irrigation assessment rate was determined in 2010. For example, the \$117,969 charge on principle and the costs to repair wells not in the original well rehabilitation schedule were not

foreseen; and the electrical charges associated with higher than normal groundwater pumping and the annual river commissioner assessment were both significantly higher than expected. All of these factors combined resulted in more than \$400,000 in unanticipated expenses.

Consequently, the reserve fund for the SCIP-JW will be increased to \$550,000 for FY 2014.

Comment: The commenter suggested that the responsibility and associated contract costs for services provided for wells be removed from the FY 2013 and 2014 budget and from the 2014 assessment.

Response: SCIP-JW will retain responsibility for the wells as provided in the Arizona Water Settlements Act. Please refer to the previous responses concerning this issue.

Comment: The commenter suggested that the responsibility and associated costs for supplies for the drip oil for pumps be removed from the FY 2013 and 2014 budget and the 2014 assessment.

Response: SCIP will retain responsibility for the wells as provided in the Arizona Water Settlements Act. Please refer to the previous responses concerning this issue.

Comment: The commenter believes the costs for utilities that supply power for new gates and facilities be removed from the FY 2014 budget and assessment.

Response: Please refer to the previous response concerning this issue.

Comment: The commenter suggests that with potential staffing reductions, BIA should review the need for replacement vehicles and provide improved justification for this expenditure.

Response: SCIP-JW will continue to budget for the number of replacement vehicles reflected until there is a verified need to reduce Irrigation Division staffing. Also, please refer to the previous response concerning the issue of possible reduced staffing requirements as rehabilitation construction is completed on SCIP facilities.

Comment: The commenter suggested that the funds estimated for equipment necessary for the replacement of the drip oil tanks be reduced to reflect only the tank removal costs.

Response: An item to replace the above ground drip oil tanks is not included in the current projected budget. Please refer to the previous response concerning the replacement of the drip oil tanks. Also, please refer to the previous response related to the transfer of the O&M responsibility of SCIP-JW wells.

Comment: The commenter is displeased with what it views as “material deviations from approved budgets.” The commenter believes the Project makes changes to the budget with little or no documentation or consultation with the District.

Response: The BIA disagrees with the District’s position on this matter. The assumption that SCIP-JW is limited to an approved budget in any given year is misplaced. SCIP-JW updates its O&M budget regularly as more information becomes available from the time the O&M budget is prepared two years in advance for rate setting purposes, to the fiscal year in which SCIP-JW performs the actual work. The SCIP-JW provides the District with an update on SCIP-JW’s budget at nearly every monthly District Board meeting, at regularly scheduled water user meetings, and upon specific request from the District.

One comment was received concerning the Wind River Irrigation Project.

A written comment relating to the FY 2013 proposed O&M rate for the Wind River Irrigation Project was received by an undated letter from a project water user. The commenter was opposed to any O&M rate increases, based on their concerns about the project’s ability to deliver water to portions of the project and the potential formation of water user groups that might impact project funding opportunities.

Response: At this time, the BIA does not have discretionary funding to supplement O&M revenues. Without the necessary O&M rate increases, lack of adequate funds could result in the inability of the project to maintain irrigation system components and deliver water. The BIA remains committed to working with all project water users to review and develop options for cost savings and alternate revenue sources. If water users are interested in assuming the O&M responsibilities for their project, the BIA will consider proposals and work with the appropriate parties to facilitate the transfer of these functions. For those farm units where BIA determines that our irrigation facilities are not capable of delivering adequate irrigation water, an Annual Assessment Waiver can be granted to waive the O&M assessment.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at www.gpo.gov.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary - Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

Whom can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

Northwest Region Contacts	
Stanley Speaks, Regional Director Bureau of Indian Affairs, Northwest Regional Office 911 N.E. 11 th Avenue Portland, Oregon 97232-4169 Telephone: (503) 231-6702	
Project Name	Project/Agency Contacts
Fort Hall Irrigation Project	Dean Fox, Superintendent Fort Hall Agency P.O. Box 220 Fort Hall, ID 83203-0220 Telephone: (208) 238-2301
Wapato Irrigation Project	Edwin Lewis, Project Administrator Wapato Irrigation Project P.O. Box 220 Wapato, WA 98951-0220 Telephone: (509) 877-3155

Rocky Mountain Region Contacts	
Ed Parisian, Regional Director Bureau of Indian Affairs, Rocky Mountain Regional Office 316 North 26th Street Billings, Montana 59101 Telephone: (406) 247-7943	
Project Name	Agency/Project Contacts
Blackfeet Irrigation Project	Stephen Pollock, Superintendent Greg Tatsey, Irrigation Project Manager Box 880 Browning, MT 59417 Telephones: (406) 338-7544, Superintendent (406) 338-7519, Irrigation Project Manager
Crow Irrigation Project	Vianna Stewart, Superintendent Vacant, Irrigation Project Manager P.O. Box 69 Crow Agency, MT 59022 Telephones: (406) 638-2672, Superintendent (406) 638-2863, Irrigation Project Manager

Fort Belknap Irrigation Project	Cliff Hall, Superintendent Vacant, Irrigation Project Manager (Project operations & management contracted to Tribes) R.R.1, Box 980 Harlem, MT 59526 Telephones: (406) 353-2901, Superintendent (406) 353-8454, Irrigation Project Manager (Tribal Office)
Fort Peck Irrigation Project	Rhonda Knudsen, Superintendent P.O. Box 637 Poplar, MT 59255 Huber Wright, Acting Irrigation Project Manager 602 6th Avenue North Wolf Point, MT 59201 Telephones: (406) 768-5312, Superintendent (406) 653-1752, Irrigation Project Manager
Wind River Irrigation Project	Ray Nation, Superintendent Brent Allen, Irrigation Project Manager P.O. Box 158 Fort Washakie, WY 82514 Telephones: (307) 332-7810, Superintendent (307) 332-2596, Irrigation Project Manager

Southwest Region Contacts	
William T. Walker, Regional Director, Bureau of Indian Affairs, Southwest Regional Office 1001 Indian School Road Albuquerque, New Mexico 87104 Telephone: (505) 563-3100	
Project Name	Project/Agency Contacts
Pine River Irrigation Project	John Waconda, Superintendent Vacant, Irrigation Systems Operator, Irrigation Engineer P.O. Box 315 Ignacio, CO 81137-0315 Telephones: (970) 563-4511, Superintendent (970) 563-9484, Irrigation Engineer

Western Region Contacts	
Bryan Bowker, Regional Director Bureau of Indian Affairs, Western Regional Office 2600 N. Central Ave. 4 th Floor Mailroom Phoenix, Arizona 85004 Telephone: (602) 379-6600	

Project Name	Project/Agency Contacts
Colorado River Irrigation Project	Janice Staudte, Superintendent Gary Colvin, Acting Irrigation Project Manager 12124 1 st Avenue Parker, AZ 85344 Telephone: (928) 669-7111
Duck Valley Irrigation Project	Joseph McDade, Superintendent 1555 Shoshone Circle Elko, NV 89801 Telephone: (775) 738-0569
Fort Yuma Irrigation Project	Irene Herder, Superintendent 256 South Second Avenue, Suite D Yuma, AZ 85364 Telephone: (928) 782-1202
San Carlos Irrigation Project Joint Works	Ferris Begay, Acting Project Manager Clarence Begay, Irrigation Manager P.O. Box 250 Coolidge, AZ 85228 Telephone: (520) 723-6203
San Carlos Irrigation Project Indian Works	Cecilia Martinez, Superintendent Pima Agency, Land Operations P.O. Box 8 Sacaton, AZ 85247 Telephone: (520) 562-3326 Telephone: (520) 562-3372
Uintah Irrigation Project	Dinah Peltier, Acting Superintendent P.O. Box 130 Fort Duchesne, UT 84026 Telephone: (435) 722-4300 Telephone: (435) 722-4341
Walker River Irrigation Project	Athena Brown, Superintendent 311 E. Washington Street Carson City, NV 89701 Telephone: (775) 887-3500

What irrigation assessments or charges are adjusted by this notice?

The rate table below contains the current rates for all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the final rates for the 2013 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where 2013 are

different from the 2012 rates.

Northwest Region Rate Table			
Project Name	Rate Category	Final 2012 Rate	Final 2013 Rate
Fort Hall Irrigation Project *	Basic per acre	\$45.50	\$47.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project - Minor Units *	Basic per acre	\$23.50	\$24.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project – Michaud *	Basic per acre	\$45.00	\$47.50
	Pressure per acre	\$62.00	\$65.50
	Minimum Charge per tract	\$32.50	\$32.50
Wapato Irrigation Project – Toppenish/Simcoe Units *	Minimum Charge for per bill	\$20.00	\$21.00
	Basic per acre	\$20.00	\$21.00
Wapato Irrigation Project - Ahtanum Units *	Minimum Charge per bill	\$20.00	\$24.00
	Basic per acre	\$20.00	\$24.00
Wapato Irrigation Project - Satus Unit *	Minimum Charge for per bill	\$65.00	\$71.00
	“A” Basic per acre	\$65.00	\$71.00
	“B” Basic per acre	\$70.00	\$77.00
Wapato Irrigation Project - Additional Works*	Minimum Charge per bill	\$67.00	\$71.00
	Basic per acre	\$67.00	\$71.00
Wapato Irrigation Project - Water Rental*	Minimum Charge	\$72.00	\$79.00
	Basic per acre	\$72.00	\$79.00

Rocky Mountain Region Rate Table			
Project Name	Rate Category	Final 2012 Rate	Final 2013 Rate
Blackfeet Irrigation Project*	Basic-per acre	\$19.00	\$19.50
Crow Irrigation Project – Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units)*	Basic-per acre	\$23.30	\$23.80
Crow Irrigation Project – All Others (includes Bighorn, Soap Creek, and Pryor Units)*	Basic-per acre	\$23.00	\$23.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	\$2.00	\$2.00
Fort Belknap Irrigation Project*	Basic-per acre	\$14.75	\$15.00
Fort Peck Irrigation Project*	Basic-per acre	\$24.70	\$25.00
Wind River Irrigation Project – Units 2, 3 and 4*	Basic-per acre	\$20.00	\$21.00
Wind River Irrigation Project – LeClair District * (see Note#1)	Basic-per acre	\$20.00	\$30.84
Wind River Irrigation Project – Crow Heart Unit*	Basic-per acre	\$14.00	\$17.10
Wind River Irrigation Project – A Canal Unit*	Basic-per acre	\$ 14.00	\$13.60
Wind River Irrigation Project – Riverton Valley Irrigation District	Basic-per acre	\$16.00	\$16.00

Southwest Region Rate Table			
Project Name	Rate Category	Final 2012 Rate	Final 2013 Rate
Pine River Irrigation Project	Minimum Charge per tract	\$50.00	\$50.00
	Basic-per acre	\$15.00	\$15.00

Western Region Rate Table				
Project Name	Rate Category	Final 2012 Rate	Final 2013 Rate	Proposed 2014 Rate
Colorado River Irrigation Project	Basic per acre up to 5.75 acre-feet	\$54.00	\$54.00	To be determined
	Excess Water per acre-foot over 5.75 acre-feet	\$17.00	\$17.00	
Duck Valley Irrigation Project	Basic per acre	\$5.30	\$5.30	
Fort Yuma Irrigation Project (See Note #2)	Basic per acre up to 5.0 acre-feet	\$86.00	\$86.00	
	Excess Water per acre-foot over 5.0 acre-feet	\$14.00	\$14.00	
	Basic per acre up to 5.0 acre-feet (Ranch 5)	\$86.00	\$86.00	
San Carlos Irrigation Project (Joint Works) (See Note #3)	Basic per acre	\$30.00	\$30.00	\$30.00
	Final 2012 – 2013 Construction Water Rate Schedule:			
		Off Project Construction	On Project Construction - Gravity Water	On Project Construction - Pump Water
	Administrative Fee	\$300.00	\$300.00	\$300.00
	Usage Fee	\$250.00 per month	No Fee	\$100.00 per acre-foot
	Excess Water Rate†	\$5 per 1000 gal	No charge	No charge
†The excess water rate applies to all water used in excess of 50,000 gallons in any one month.				
San Carlos Irrigation Project (Indian Works) * (See Note#4)	Basic per acre	\$73.00	\$81.00	To be determined
Uintah Irrigation Project	Basic per acre	\$16.00	\$16.00	
	Minimum Bill	\$25.00	\$25.00	
Walker River Irrigation Project *	Indian per acre	\$25.00	\$28.00	

	non-Indian per acre	\$25.00	\$28.00	
<p>* Notes irrigation projects where rates are proposed for adjustment.</p> <p>Note #1 - The O&M rate varies yearly based upon the budget submitted by the LeClair District.</p> <p>Note #2 – The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2013 is yet to be determined. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2013 BIA rate remains unchanged at \$7.00/acre. The rates shown include the 2012 Reclamation rate and the 2013 BIA rate. The rates shown include the estimated FY 2013 rate.</p> <p>Note #3 – The 2013 rate was established by final notice in the Federal Register on February 23, 2012(Vol. 77 No. 36, page 10767). In addition, a Construction Water Rate Schedule for the San Carlos Irrigation Project – Joint Works is now being formally established. The rate schedule establishes the fees assessed for use of irrigation water for non-irrigation purposes. This notice establishes \$30/acre as the rate in FY 2014 for the Joint Works.</p> <p>Note #4 - The 2013 O&M rate for the San Carlos Irrigation Project – Indian Works has three components. The first component is the O&M rate established by the San Carlos Irrigation Project – Indian Works, the owner and operator of the Project; this rate is proposed to be \$43 per acre. The second component is for the O&M rate established by the San Carlos Irrigation Project – Joint Works and is determined to be \$30.00 per acre. The third component is the O&M rate established by the San Carlos Irrigation Project Joint Control Board and is proposed to be \$ 8 per acre.</p>				

Consultation and Coordination with Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish “a rule of particular applicability relating to rates.” 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than \$130 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Takings (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant

“takings” implications. The rate adjustments do not deprive the public, state, or local governments of rights or property. Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076-0141 and expires March 31, 2016.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(d)).

Data Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. No. 106-554).

Dated: January 15, 2014.

Kevin K. Washburn
Assistant Secretary – Indian Affairs

[FR Doc. 2014-01280 Filed 01/22/2014 at 8:45 am; Publication Date: 01/23/2014]